

## Questions and Answers/April 2, 2008, Webinar

1. Is Exceptional Pupil Aid reciprocal between states? Can equipment purchased with these funds in one state travel with the student when he transfers to Missouri?

Answer: There is no longer EPA, as special education funding has been rolled into the state's foundation formula. So the question may be whether equipment purchased with Part B IDEA grant monies can be given at some point to the student.

According to federal regulations, it sounds like you may give it to the child if it has depreciated to less than \$5,000 or the school district's limit (likely \$1,000) whichever is lower.

The regulations provide the following:

Disposition: When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a federal agency, disposition of the equipment will be made as follows:

Items of equipment with a current per unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of with no further obligation to the awarding agency.

Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

2. Rumor that OSEP is talking about giving parents the right to pull their child from services and placement. The district has no recourse for due process. Any truth to this?

Answer: OSEP has indicated they will be addressing this issue in a policy letter or new regulation. They mentioned this in the comments that were published with the final IDEA regulations. However, that was almost two years ago and I haven't seen anything on it. It would not surprise me at all if the rumor is true.

3. Does DESE have a say in whether we use the overall sample base rate column or the GAI score base rate column? This is from table 3 in the WISC IV's Technical Report #4.

Answer: No. You will want to ensure if you use the GAI, you are following the publisher's instructions. Whether you have correctly determined the child eligible or ineligible could be the subject of a due process hearing.

4. How do we know how many items to pre-select for the MAP and how do we know which ones are embedded this year?

Answer: The Division of School Improvement provided this response: Teachers that are directed by IEP teams to modify the number items a student attempts on a content area assessment should follow the directions of the IEP team and select appropriate items for the student to complete. The field test items are being taken care of through the scoring process and will count toward participation in the assessment.

5. Are you required to make a statement regarding that functional performance is grade and/or age appropriate in the PLAAFP if there are no concerns in functional performance?

Answer: Generally, we would expect that in the process of describing the child's present levels of performance (describing how the child's disability affects his/her involvement and progress in the general education curriculum, addressing strengths of the child and concerns of the parent for enhancing the education of their child, describing changes in functioning since the initial/prior IEP etc.) you would be including information that reflects not only the child's academic and developmental performance and needs, but also the child's functional performance and needs. The Present Levels of Academic Achievement and Functional Performance (PLAAFP) section of the IEP is an important foundation for the development of the IEP, and IDEA has placed specific emphasis on the importance of functional skills through its description of this portion of the IEP.

Since it is important that the IEP be as clear as possible for all members of the team and those that are implementing services, if you feel that you have not already made it clear throughout the PLAAFP that functionally the child's performance is age/grade level appropriate and there are no needs related to functional performance, then it would be appropriate to make a statement to that effect.

6. Series of questions about In-State Transfers: I understand that it is the responsibility of the new school district to take reasonable steps to promptly obtain the child's records and to complete the Interview Information Documentation Form with the parent/guardian, student (18+) and Sending School District within two business days of enrollment when there is a known or suspected disability.

A. What if the new school district is unable to get a hold of the parent/guardian within those two business days?

Answer: The two business days refers to the number of business days the new school district has to contact the sending district to request records and is not referencing contact with parents/guardians. Interviews with parents/guardians can be made at anytime but ideally when the student is enrolling. The request to the sending district for records within two days is made in accordance with the Missouri Safe Schools Act.

B. How many attempts and/or days is the new school district required to obtain this information from the parent/guardian?

Answer: Once again, the requirement is regarding the transaction between the new district and the sending district and is not applicable to requests made to parents/guardians. In order to be in compliance, the district needs to document the date the agency requested records, the listing of records requested, and the dates the agency received the records from the sending district. There are no specific requirements about the number of attempts and/or days.

C. Will receiving information from the Sending School District suffice when the new school district is unable to obtain information from the parent/guardian?

Answer: Yes. Even though parents/guardians provide information, the new district must request information from the sending district and the information from the sending district must be used in deciding whether to accept or reject the previous evaluation report and/or IEP.

D. Since the Division of Youth Services provides educational services year round-what is the proper procedure/time limits of obtaining records from the sending school district? I am asking this due to the fact that during the month of July and up to the first/second week in August when basically there are no school personnel to answer the phones or retrieve records, it is very difficult in obtaining records in a timely manner.

Answer: Understandably, it might be difficult to obtain records when schools are not in session. In this case, interviews with parents/guardians and even the student might reveal that the student was previously receiving special education services.

The new district or in this case, DYS, should document the date of interviews, names and roles of individuals interviewed, and the information gained from the interview. In addition, the district should refer to the standards and follow the steps based on the information available for the child. Finally, districts should document the attempts to get information through interviews or documentation. Be sure to follow any requirements related to comparable services.

E. Do you have DESE training materials pertaining to the IDEA IN-STATE Transfer Student Documentation Form like you do for the Form C: Transition form?

We are uncertain what DESE training materials you are referring to regarding Form C: Transition. We have a webinar posted on our website entitled "The Special Education Process and Changes in IDEA 2004" that addresses in-state transfers among many other topics. The transfer documentation form is designed with the four possible scenarios a district might encounter, when receiving an in-state transfer student, listed at the bottom of the first page of the in-state transfer form. The district should choose the appropriate section, according to the scenario they are encountering and follow the step-by-step process to ensure they are in compliance with IDEA. If further assistance is needed, please contact a compliance supervisor at 573-751-0699.

7. Why use the GAI when it turns a "blind eye" to very important information?

Answer: Proponents of the use of GAI indicate that to not use it is to turn a "blind eye" to important information. The two camps may need to agree to disagree. There are arguments for and against but the bottom-line is that the school district team has authority to decide whether to use, and if the decision is to use it, then it must be done in accordance with the publisher's instructions.

8. Our Transition Team wanted to know when the newest Transition Form will be available for district use with IEPs.

Answer: We have no plans to revise the form.

9. Can a child have an IEP and also a 504 at the same time? Example: a Sound System Disordered child who receives speech therapy and not eligible for occupational therapy. Can the OT be provided through the 504?

Answer: You may want to consult with your school attorney and/or the U. S. Department of Education, Office for Civil Rights (OCR) regarding this question and the issues it raises. In general, we would not expect to see a separate Section 504 Plan if the child is already under an IEP. The standard of services under IDEA and Section 504 are the same - both laws require the provision of a Free Appropriate Public Education (FAPE). When a child is found eligible for IDEA, there is no separate eligibility determination for a related service. If the IEP team believes the child needs OT in order to benefit from his/her special education services, then the IEP should provide for OT. Under IDEA, related services by definition are services that enable a child to benefit from special education services. Under Section 504, related services are services that enable a child to benefit

from educational services (special education services are not required). Theoretically, I guess there may be a case in which a child might require a related service under Section 504, but not under IDEA, but it is hard to imagine given the FAPE standard of both laws.

10. How should a school district handle a parent referral at the end of the school year (there isn't enough time to complete before staff leaves for summer break)?

Answer: Summer break is one of the acceptable reasons for tolling the evaluation timeline. You will want to get done as much as possible before the break and work as quickly as possible when you return to avoid any unnecessary delay.

11. We have always been very diligent about listing related services with our "diagnosis" when we determine eligibility. We also go through the complete reevaluation process to add or drop a related service even when the primary "diagnosis" is remaining the same. However, I notice that many transferring schools do not list the related services on the evaluation report and they are often added or dropped on the IEP without evidence of reevaluation. Are we doing the process correctly or can we add and drop related services without reevaluation? And should related services be identified by the IEP team and documented on the evaluation report at the time of eligibility determination?

Answer: Reevaluation is not required for an IEP team to decide to drop or add a related service; however, in many cases a reevaluation will be what informs that decision. We do not expect to see the related services listed as a part of the eligibility determination, since there is no eligibility criteria for a related service.

12. Section 200.740 of the Compliance manual requires a statement in the IEP present level regarding academic achievement and functional performance. Indicator 200.740.f. says "academic, developmental, and functional needs of the child." Could you explain the addition of the word developmental? Is this another component?

Answer: Section 300.320 of the federal regulations covers the content of the IEP, and "A statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects involvement and progress in the general education curriculum....." is one of the components listed. Section 300.324 deals with things an IEP team must consider in developing the IEP. The list includes the strengths of the child, the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the child, and the academic developmental and functional needs of the child. This last item was an addition in the most recent federal regulations.

We put these things in the standards under content of the IEP because we would expect the IEP to reflect that these things were considered, and we listed them under the statement of the present levels of academic achievement and functional performance because that seems to be the most logical place you would see this type of information documented.

13. I was wondering is there any type of funding or grants available for a small rural school district to help fund Occupational/Physical/Speech therapies for a student whose parent's insurance will only provide X-number of trips and they want the school to provide for the services during the summer. The student has a diagnosis of Down's syndrome and the parents want her to have therapy during the summer through a local hospital.

Answer: I assume the therapies you are describing are being provided because the IEP team decided the child was in need of extended school year services and those included the therapies. I am not aware of any special funding for such therapies over and above the normal school funding provided for summer school.

14. I have heard that elementary special education teachers who give a grade (self-contained) need to have regular elementary certification as well as special education certification to be considered HQT. Is this true?

Answer: Special education teachers who teach in the elementary setting and give a grade must be highly qualified. This may mean that they need to have certification in elementary education or it could mean they meet the HQ requirement in another way. See SELS message sent out on March 28, 2008, and the PowerPoint summary of the HQ requirements for more information. This is posted on our Effective Practices Section's webpage.

15. Are districts required to provide parents the raw data used to determine progress on goals? If so, how long and where should this data be maintained?

Answer: If by raw data, you mean personal notes kept by a teacher about the child's progress, the answer is no. If the information is shared by the teacher with anyone other than a substitute teacher, such as others on the team, then the parent has a right to inspect and review it; however, I don't think that means it all has to be maintained for any particular length of time, just that if it is still in existence, the parent should be able to inspect and review. I can't think of any raw data that a teacher would keep that would fall outside the personal note exception. This data would be kept like a teacher would keep a chapter test, graded assignments, etc. perhaps until the grades/progress towards goals were recorded and then disposed of it, or perhaps to the end of the school year. School policy about what is kept in permanent records would help determine what the teacher should keep and whether this kind of thing is kept in the permanent file.

If you are talking about raw data that involves the grade book, then once that grade or data point is recorded, the artifact does not need to be kept (the paper that generated the data). Generally, teachers send most papers home after recording the grade. Most teachers keep some papers as "example" work until the end of the grading period or parent-teacher conferences, but then those are discarded or given to the parent.

16. Low cognitive ability is not in the standards and indicators for SLD. It is only addressed in the RTI supplementals? Can students with low cognitive ability meet initial eligibility criteria using the strengths and weakness discrepancy method being that low cognitive ability is not in the S&I? In other words, if a district determines a child is not eligible as a child with a SLD because of low cognitive ability, when the child would otherwise meet eligibility criteria as established in the standards and indicators, is the district considered out of compliance? Should we be considering the RTI supplementals as a compliance documents like the standards and indicators?

Answer: Currently, Missouri allows two methods for public agencies to use when determining whether or not a student has a Specific Learning Disability (SLD). These methods include the discrepancy method or Response to Intervention (RtI). Despite the method used for SLD identification, compliance is achieved if the SLD requirements contained within the Missouri Standards and Indicators Manual are met. Therefore, assuming these requirements are met, a child with generally low cognitive ability could potentially be identified as having a SLD.

The Missouri Standards and Indicators Manual represent Missouri's special education compliance legal requirements and are aligned to the federal special education requirements as set forth in IDEA. The State of Missouri RtI Guidelines document is intended to be a policy/guidance document to assist districts in understanding the broader implications of the two identification methods, the procedural requirements as discussed in the regulations regarding district policies and meeting the regulatory requirements in the Missouri Standards and Indicators Manual.

17. What do you advise districts to do when you can't find a certified Speech Language pathologist to sub for a Speech/Language Pathologist on maternity leave?

Answer: You will want to aggressively pursue a contractor. Check with schools that are located within driving distance, check with the State Schools for Severely Handicapped to see if they have any state contractors in your area or within driving distance, check with hospitals and nursing homes, and place advertisements in advance of the maternity leave. If you have been unsuccessful, at least you have documentation of your efforts. You will also want to document that you have committed to providing compensatory services when the SLP returns or convene the IEP team to address what, if any, compensatory services are needed.

18. Referring to the SLP sub question, can compensatory services be after school or cumulatively in the summer?

Answer: This is a district decision.

19. End of course exam question... Can we read English II exam if we would typically read a final to a student?

Answer: Any accommodations used on the MAP can be used on the End of Course exams. Reading an exam that is assessing reading ability will invalidate the score.

20. End of course exams - any suggestions on how to write in IEPs currently being drafted?

Answer: See SELS message of February 28, 2008, on this topic. As IEP teams meet to review/revise IEPs for students that will be in high school next school year and are not eligible for MAP-A, the IEPs should reflect that high school students will not participate in MAP testing but will participate in End of Course examinations. The IEP should state that accommodations listed are for the End of Course examinations.

21. On the IEP, are goals required for each special education and related service provided? For example, a student with Listening Comprehension, he may need services in 4 different classes, but would only need a goal in Listening Comprehension. He would not necessarily need a goal for each class, correct?

Answer: Correct.

22. Can you get OT services if a child is under eligibility for Sound system Disorder only. Is it no longer considered a single discipline?

Answer: It is an IEP team decision whether a child who is identified under IDEA under the category of Speech/Language needs OT services.

23. Are you going to provide any additional guidance or more current guidance on class-within-a-class service delivery model?

Answer: No. If you have specific questions you need addressed, please contact our Compliance Section on this topic.

24. Have a question dealing with highly qualified teachers and how requirements apply to special education. I know that special education teachers working with secondary students on alternate achievement (MAP-A) need to meet elementary requirements. Let's say you have a group of 9th graders that are working on 6th grade curriculum level in math. How is this handled with HQT? Does the teacher need to meet the qualifications of the grade level the students are placed in or the curriculum level that is being taught to those students?

Answer: Teachers at the secondary level (grades 9-12) can only become HQ through meeting the elementary standards if they are teaching core content to students assessed against alternative achievement standards (MAP-A) kids. All others at secondary level teaching core content to high school students (regardless of the level of the content they are teaching) must be HQ at the secondary level in each core content area in which they are teaching.

Teachers in grades K-8 can be HQ by meeting the elementary requirements.

25. Please address Extended School Year and the rules that apply to it.

Answer: We posted a technical assistance document on our website; it is a Frequently Asked Questions and Answers (FAQ) on this topic, posted on the Compliance Page under "Frequently Asked Questions." If you have any questions after reviewing this, please let us know.